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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 KITRICH A. POWELL,

11 Petitioner,

12 vs.

13 WILLIAM GITTERE, *et al.*,

14 Respondents.

15 Case No. 2:06-cv-01264-KJD-DJA

16 **UNOPPOSED MOTION FOR
ENLARGEMENT OF TIME TO FILE
RESPONSE TO SECOND AMENDED
PETITION (ECF NO. 105)**

17 **(FIRST REQUEST)**

18 **(DEATH PENALTY)**

19 Respondents move this Court for an enlargement of time of seventy-five (75) days from the
20 current due date of January 20, 2022, up to and including April 5, 2022, in which to file their Response to
21 Kitrich A. Powell's Second Amended Petition for Writ of Habeas Corpus (ECF No. 105). This Motion
22 is made pursuant to FED. R. CIV. P. 6(b) and Rule 6-1 of the Local Rules of Practice and is based upon
23 the attached declaration of counsel. This is the first enlargement of time sought by Respondents to file
24 the response to the Second Amended Petition, and the request is brought in good faith and not for the
25 purpose of delay.

26 DATED: January 20, 2022.

27 Submitted by:

28 AARON D. FORD
Attorney General

By: /s/ Erica Berrett
Erica Berrett (Bar. No. 13826)
Deputy Attorney General

DECLARATION OF ERICA BERRETT

STATE OF NEVADA)
COUNTY OF CLARK) ss:

I, ERICA BERRETT, being first duly sworn under oath, deposes and states as follows:

1. I am an attorney licensed to practice law in all courts within the State of Nevada and am employed as a Deputy Attorney General in the Office of the Nevada Attorney General. I have been assigned to represent Respondents in *Kitrich A. Powell v. William Gittere, et al.*, Case No. 2:06-cv-01264-KJD-DJA-RFB-WGC, and as such, have personal knowledge of the matters contained herein.

2. This Motion is made in good faith and not for the purpose of delay.

3. The deadline to file the response to the Second Amended Petition for Writ of Habeas Corpus (ECF No. 105) is January 20, 2022. My colleague Senior Deputy Attorney General Jessica Perlick and I have been unable with due diligence to timely complete the response.

4. Senior Deputy Perlick and I only recently assumed responsibility for this case. We filed our notice of change of attorney and notice of association of counsel on January 6, 2022. ECF No. 130; ECF No. 131. Although we have begun to familiarize ourselves with the case, the extensive procedural history and state court record involved in this case will require substantially more review before we can draft Respondents' response to the Second Amended Petition.

5. As Senior Deputy Perlick and I only recently learned of this case assignment, we have to balance it with our upcoming deadlines in other federal habeas matters. Therefore, we require additional time to complete the response to the Second Amended Petition.

6. Senior Deputy Perlick has informed me that in the next two months, she has deadlines to file multiple pleadings in other federal habeas matters, including an answering brief in the Ninth Circuit matter *Connors v. Hutchings*, 21-15693; a reply in *Cobb v. Gentry*, 3:15-cv-00172-MMD-WGC; a reply in the capital habeas matter *Bollinger v. Gittere*, 2:98-cv-01263-MMD-BNW; and a reply and opposition in *Dixon v. Baker*, 3:13-cv-00248-RCJ-WGC. Senior Deputy Perlick also has oral argument in the Ninth Circuit matter *Murray v. Howell*, 21-15104 scheduled for next month. She also must prepare for an evidentiary hearing in capital habeas matter *Williams v. Gittere*, 2:98-cv-0056-APG-VCF, with her prehearing brief and prehearing motions due within the next two months.

7. Within approximately the next two months, I also have multiple federal habeas pleadings to file, including a response in *Moncada v. Perry*, 3:19-cv-00231-MMD-CLB; a response in capital habeas matter *Weber v. Gittere*, 3:11-cv-00104-RFB-WGC; a response in *Berman v. Nevada*, 2:21-cv-01359-APG-BNW; an answer in *Granados v. Baker*, 3:20-cv-00427-MMD-WGC; and an opening brief in Ninth Circuit matter *LaChance v. Dzurenda*, 21-16694.

8. Senior Deputy Perlick contacted Petitioner's counsel regarding this request, and they do not oppose it.

9. Based on the foregoing, I respectfully request an enlargement of time of seventy-five (75) days, up to and including April 5, 2022, in which to file the response to the Second Amended Petition (ECF No. 105).

Executed on January 20, 2022.

/s/ Erica Berrett
Erica Berrett (Bar No. 13826)

IT IS SO ORDERED:

DATED: 1/20/2022

UNITED STATES DISTRICT JUDGE
